

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
JEFFERSON RIVER BASIN (41G)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANT: Ronald J. Van Dyke

OBJECTOR: State of Montana (Department of Fish Wildlife & Parks)

**41G-0413-R-2020**

41G 95635-00

41G 95636-00

**ORDER AMENDING AND ADOPTING MASTER'S REPORT**

Pursuant to Montana Code Annotated, Section 85-2-233(5), Case 41G-0413-R-2020 was assigned to Water Master Eyvind Ostrem. The Water Master filed a Report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the Report were served on the parties November 25, 2022. On December 8, Claimant Ronald Van Dyke filed an Objection to Master's Report to correct a clerical error in the point of diversion for claim 41G 95636-00.

Mr. Van Dyke's objection notes that the Master's Report and attached abstracts perpetuated a clerical error in the claim's point of diversion, which appears to have originated in a September 17, 1992 Stipulation and subsequent master's report in case 41G-75. A map submitted with that 1992 Stipulation makes clear that the intended point of diversion is in Section 33 (not Section 35) T3N R4W. The Water Court may correct a clerical mistake or a mistake arising from oversight or omission where one is found in a

part of the record. Rule 60(a), M.R.Civ.P. Accordingly, the following clerical correction should be made to the point of diversion of claim 41G 95636-00:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWSW	<del>35</del> <u>33</u>	3N	4W	Jefferson

The time frame for filing objections has elapsed, and no other objections to the Findings and Conclusion have been filed. The abstracts are corrected to resolve the clerical error and objection to the Master's Report. No other amendments to the November 25, 2022 Master's Report are needed.

Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Master's Report and its Recommendations with the above-referenced amendments, and **APPROVES** the changes to the centralized computer record system that are reflected on each abstract served with this order.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via Electronic Mail**

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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
JEFFERSON RIVER  
BASIN 41G**

**Water Right Number:** 41G 95635-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RONALD J VAN DYKE  
129 RIDDER LN  
WHITEHALL, MT 59759 9625

**Priority Date:** SEPTEMBER 15, 1883

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 282.80 GPM

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 3 - MODERATE

**\*Maximum Acres:** 63.00

**Source Name:** WHITETAIL DEER CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		E2E2NE	5	2N	4W	JEFFERSON

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** PUMP

**Period of Use:** MAY 1 TO NOVEMBER 1

**\*Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	43.00		NW	4	2N	4W	JEFFERSON
2	20.00		SWSW	33	3N	4W	JEFFERSON
<b>Total:</b>	63.00						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95635-00

95636-00

95637-00

95638-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
JEFFERSON RIVER  
BASIN 41G**

**Water Right Number:** 41G 95636-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**\*Owners:** RONALD J VAN DYKE  
129 RIDDER LN  
WHITEHALL, MT 59759 9625

**Priority Date:** APRIL 1, 1878

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 283.00 GPM

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 3 - MODERATE

**\*Maximum Acres:** 109.00

**\*Source Name:** WHITETAIL DEER CREEK

**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSW	33	3N	4W	JEFFERSON

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** PUMP

**Period of Use:** MAY 1 TO NOVEMBER 1

**\*Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	45.00		W2W2	4	2N	4W	JEFFERSON
2	24.00		E2NE	5	2N	4W	JEFFERSON
3	20.00		SWSW	33	3N	4W	JEFFERSON
4	20.00		SESE	32	3N	4W	JEFFERSON
<b>Total:</b>	109.00						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95635-00

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